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Resolution adopted by the Human Rights Council on 22 June 2017

35/17. Protection of the human rights of migrants: the global compact for safe, orderly and regular migration

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention for the Protection of All Persons from Enforced Disappearance, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, the Vienna Convention on Consular Relations, the Convention on the Rights of Persons with Disabilities, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the United Nations Convention against Transnational Organized Crime and the protocols thereto, in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,

Recalling also previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on the protection of the human rights of all migrants, and the work of the various special mechanisms of the Council that have reported on the situation of the human rights and fundamental freedoms of migrants,

Reaffirming that the Universal Declaration of Human Rights proclaims that everyone has the right to freedom of movement and residence within the borders of each

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State and the right to leave any country, including his or her own, and to return to his or her country,

Reaffirming also that everyone is entitled to all human rights and fundamental freedoms, without distinction of any kind, wherever the person is and regardless of his or her migration status,

Recognizing that States are responsible for promoting, protecting and respecting the human rights of all persons, including all migrants, regardless of their migration status, who are in their territory and subject to their jurisdiction,

Recognizing also the shared and respective responsibilities of countries of origin, transit and destination in promoting, protecting and respecting the human rights of all migrants, and urging all countries to avoid approaches that might aggravate their vulnerable situation,

Recalling that the Human Rights Council has the mandate to, inter alia, promote universal respect for the protection of all human rights and fundamental freedoms for all, without discrimination of any kind and in a fair and equal manner, to serve as a forum for dialogue on thematic issues on all human rights, and to promote the effective coordination and mainstreaming of human rights within the United Nations system,

Underscoring that all migrants, regardless of their migration status, are human rights holders, and reaffirming the need to protect their safety, dignity and human rights and fundamental freedoms,

Reaffirming the New York Declaration for Refugees and Migrants and the annexes thereto, adopted by the General Assembly in its resolution 71/1 of 19 September 2016, and calling for the fulfilment of the commitments of Member States reflected therein,

Stressing the need to mainstream human rights throughout the global compact for safe, orderly and regular migration and, in this regard, welcoming the informal thematic session on the human rights of all migrants, social inclusion, cohesion, and all forms of discrimination, including racism, xenophobia and intolerance, held in Geneva in May 2017, and taking note of the other informal thematic sessions, regional and subregional consultations and multi-stakeholder hearings,

Taking note of General Assembly resolution 71/280 of 6 April 2017 on modalities for the intergovernmental negotiations of the global compact for safe, orderly and regular migration,

Noting with appreciation the enhanced interactive dialogue on the human rights of migrants in the context of large movements, held by the Human Rights Council at its thirty-fourth session,

Taking note with appreciation of the report on the promotion and protection of the human rights of migrants in the context of large movements,[1] submitted by the United Nations High Commissioner for Human Rights to the Human Rights Council at its thirty-third session,

Taking note with appreciation also of the reports of the Special Rapporteur on the human rights of migrants on global migration, including the report on the human rights of

[1] A/HRC/32/67.

migrants on a 2035 agenda for facilitating human mobility,[2] and taking note of the conclusions of the report of the Special Rapporteur submitted to the General Assembly,[3]

Taking note with appreciation further of the report of the Special Representative of the Secretary-General on Migration,[4]

Noting with appreciation the work performed by the Global Migration Group and, in particular, its Working Group on Migration, Human Rights and Gender, on principles and practical guidance on the protection of the human rights of migrants in vulnerable situations,

Noting the ninth summit meeting of the Global Forum on Migration and Development, held in Dhaka in December 2016, which emphasized, inter alia, the importance of improving the governance of migration which encourages the formulation of a comprehensive framework that covers all the relevant dimensions of migration, the promotion of migration and development, and addressing irregular migration, and welcoming the convening of the tenth summit meeting, in Berlin, from 28 to 30 June 2017,

Bearing in mind that policies and initiatives on the issue of migration should promote holistic approaches that take into account the causes and consequences of the phenomenon, and acknowledging that poverty, underdevelopment, lack of opportunities, poor governance and environmental factors, human rights violations and abuses, and armed conflict, terrorism, absence of peace and security, conflict prevention and resolution are among the drivers of migration,

Deeply concerned about the large and growing number of migrants, including women and children, who have lost their lives or have been injured in attempting to cross international borders, recognizing the obligation of States to protect and respect the human rights of those migrants, regardless of their migration status, and reaffirming the commitment to take action to avoid the loss of life of migrants,

Expressing serious concern about the special needs of and risks faced by migrants in vulnerable situations, including women at risk, children, especially unaccompanied migrant children or children separated from their families, members of ethnic and religious minorities, victims of violence, older persons, persons with disabilities, persons who are discriminated against on any basis, indigenous peoples, victims of human trafficking and victims of exploitation and abuse in the context of the smuggling of migrants, and recognizing the need to address vulnerable situations and the disproportionate risks migrants may face, particularly with regard to discrimination and exploitation, as well as sexual, physical and psychological abuse, violence, human trafficking and contemporary forms of slavery, racism, xenophobia, discrimination and intolerance towards all migrants,

Expressing serious concern also about the particular vulnerable situations and risks faced by migrants, which can arise from the reasons for leaving country of origin, circumstances encountered by migrants en route, at borders and at destination, specific aspects of a person's identity or circumstance or a combination of these factors,

Recalling that each State has a sovereign right to determine whom to admit to its territory, subject to that State's international obligations, and recalling also that States must readmit their returning nationals and ensure that they are duly received without undue delay, following confirmation of their nationalities in accordance with national legislation,

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[2] A/HRC/35/23.
[3] A/71/285.
[4] A/71/728.

Expressing concern at the increasing trend of xenophobia and hostility towards migrants in societies and the criminalization of irregular migration, which might have a negative impact on the fulfilment of human rights globally,

Recognizing the importance of coordinating international efforts to provide adequate protection, assistance and support to migrants in vulnerable situations, and highlighting the principles and practical guidance on the human rights protection of migrants in vulnerable situations developed by the Global Migration Group as a contribution to further work in this regard,

Recognizing also that any type of return, whether voluntary or otherwise, must be consistent with States' obligations under international human rights law and in compliance with the principle of non-refoulement and should be in keeping with the best interest of children and due process,

Mindful of the fact that, in the fulfilment of their obligations to protect human rights, States of origin, transit and destination can benefit from schemes of international cooperation,

Noting with appreciation the actions taken by several special procedures of the Human Rights Council and the treaty bodies for the effective prevention of violations of the human rights of migrants, including through joint statements and urgent appeals, and encouraging them to continue their collaborative efforts within their respective mandates to this end,

Recognizing the contribution of civil society, including non-governmental organizations, to promoting the well-being of migrants and their integration into societies, especially at times of extremely vulnerable conditions, and encouraging deeper interaction between Governments and civil society to find responses to the challenges and the opportunities posed by international migration,

Recognizing also the cultural and economic contributions made by all migrants, regardless of their migration status, to receiving societies and their communities of origin, and the need to identify appropriate means of maximizing development benefits and responding to the complex challenges that migration poses to countries of origin, transit and destination, and committing to ensuring dignified, humane treatment with applicable protections and to strengthening mechanisms for international cooperation,

Welcoming the adoption of the 2030 Agenda for Sustainable Development,[5] which recognizes the positive contribution of migrants for inclusive growth and sustainable development, and that international migration is a multidimensional reality of major relevance for the development of countries of origin, transit and destination, which requires coherent and comprehensive responses involving full respect for human rights and the humane treatment of migrants, regardless of their migration status, and acknowledging that meeting the Sustainable Development Goals and targets of the 2030 Agenda could reduce the need for migrants to leave their homes in search of greater opportunities by addressing some of the root causes of movements of refugees and migrants,

1. *Reaffirms* the need to effectively promote, protect and respect the human rights and fundamental freedoms of all migrants, regardless of their migration status, including those of women, children, persons with disabilities and those who are discriminated against on any basis, and to address international migration through international, regional or bilateral cooperation and dialogue and a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit

[5] General Assembly resolution 70/1.

and destination in promoting and protecting the human rights of all migrants, and avoiding approaches that might aggravate their vulnerability;

2. *Calls upon* all States to reaffirm the fundamental importance of respecting, protecting and fulfilling the human rights of all migrants who leave their countries, regardless of their migration status, particularly in the context of the preparatory process leading to the adoption of the global compact for safe, orderly and regular migration;

3. *Underlines* the importance of a comprehensive approach to the global compact for safe, orderly and regular migration, ensuring a people-centered, sensitive, humane, dignified, gender-responsive and prompt reception for all persons arriving in receiving countries, particularly those in large movements, and ensuring full respect and protection for their human rights and fundamental freedoms;

4. *Calls upon* all States to promote the mainstreaming of the human rights and fundamental freedoms of migrants, including women and children, regardless of their migration status, and the specific needs of migrants in vulnerable situations, including the identification and protection of victims of human trafficking, in the context of the preparatory process leading to the adoption of the global compact for safe, orderly and regular migration;

5. *Takes note with appreciation* of the *Recommended Principles and Guidelines on Human Rights at International Borders*, prepared by the Office of the United Nations High Commissioner for Human Rights, and encourages States to give due consideration to their implementation, including by considering incorporating them into any practical actions agreed in the global compact for safe, orderly and regular migration;

6. *Calls upon* States that have not yet done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a matter of priority, and requests the Secretary-General to continue his efforts to promote and raise awareness of the Convention;

7. *Also calls upon* States that have not yet done so to consider ratifying or acceding to the United Nations Convention against Transnational Organized Crime and the protocols thereto, in particular the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;

8. *Reaffirms* the duty of States to effectively promote, protect and respect the human rights and fundamental freedoms of all migrants, including those of women and children at risk, especially unaccompanied migrant children or children separated from their families, persons with disabilities and those who are discriminated against on any basis, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party;

9. *Expresses concern* at legislation and measures adopted by some States that may adversely affect the full enjoyment of the human rights and fundamental freedoms of migrants;

10. *Reaffirms* that, while States have the sovereign right to enact and implement migration and border security measures, they have a duty to comply with their obligations under relevant international law, including international human rights law and refugee law, in order to ensure full respect for the human rights of migrants, including migrants in a vulnerable situation;

11. *Invites* all States to ensure that their immigration policies are consistent with their obligations under international human rights law, and to promote the enjoyment of human rights by all migrants without discrimination, including by considering reviewing migration policies with a view to examining their possible unintended negative consequences;

12. *Calls upon* all States to promote and protect the human rights of all migrants, without discrimination of any kind, and to this end to provide assistance and relief to migrants who need it, including those in a vulnerable situation, regardless of their migration status, and to create a safe, accessible and enabling environment in which individuals and organizations that provide such attention can operate;

13. *Also calls upon* all States to adopt a comprehensive and integral approach to migration policies, to facilitate safe, orderly, regular and responsible migration and mobility of people, to cooperate at the international level on the basis of shared responsibility to harness fully the economic developments and cultural and social opportunities that migration represents, and to address efficiently its challenges in accordance with international human rights standards;

14. *Calls upon* States to give due consideration to the proposal of the Special Rapporteur on the human rights of migrants on a 2035 agenda for facilitating human mobility[2] when participating in the preparatory process and during the negotiation of the global compact for safe, orderly and regular migration;

15. *Encourages* the Office of the High Commissioner to provide technical assistance to States, upon their request, to better promote and protect the human rights of migrants;

16. *Encourages* non-governmental organizations, civil society organizations, national human rights institutions and other relevant stakeholders to participate in the informal thematic sessions and informal interactive multi-stakeholder hearings requested by the General Assembly, as part of the preparatory process for the intergovernmental conference, in accordance with Assembly resolution 71/280 on modalities for the intergovernmental negotiations of the global compact for safe, orderly and regular migration;

17. *Encourages* special procedure mandate holders and treaty bodies, in accordance with their respective mandates and in coordination with the United Nations system as a whole, to provide input and to support the State-led preparatory process for the global compact and the intergovernmental conference in accordance with General Assembly resolution 71/280;

18. *Requests* the United Nations High Commissioner for Human Rights:

(*a*) To participate in, as appropriate, and contribute to the preparatory process of the global compact for safe, orderly and regular migration with a view to providing human rights-based input and mainstreaming human rights throughout the global compact;

(*b*) To submit, as co-Chair of the Global Migration Group Working Group on Migration, Human Rights and Gender, principles and practical guidance on the protection of the human rights of migrants in vulnerable situations, on the basis of existing legal norms, and to report thereon to the Human Rights Council at its thirty-seventh session;

(*c*) To submit to the Human Rights Council before its thirty-sixth session a report on the compendium of principles, good practices and policies on safe, orderly and regular migration in accordance with international human rights law, in consultation with States and other relevant stakeholders, including regional organizations, civil society

organizations and national human rights institutions, and to transmit the report to the General Assembly at its seventy-second session;

(*d*) To submit, through the appropriate means, all relevant inputs from the Human Rights Council and its bodies and mechanisms for consideration in the preparation of the global compact for safe, orderly and regular migration, in accordance with General Assembly resolution 71/280;

19. *Invites* all States to take into account, during their participation in the preparatory process, including the negotiation leading to the adoption of the global compact for safe, orderly and regular migration, the inputs produced by the Human Rights Council and its bodies and mechanisms;

20. *Requests* the Special Rapporteur on the human rights of migrants to continue to report on solutions and to contribute to and participate in key discussions relating to the promotion and protection of the human rights of migrants, including with respect to the large movement of migrants, by identifying best practices and concrete areas and means for international cooperation in order to enhance the protection of the human rights of migrants, and to continue to pay attention to the topic of the universal enjoyment of human rights for all migrants;

21. *Encourages* States and regional and international organizations to enhance their cooperation with the Special Rapporteur on the human rights of migrants;

22. *Decides* to remain seized of the matter.

36th meeting
22 June 2017

[Adopted without a vote.]